

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

SUSIE ANN KNUTSON,

Plaintiff,

v.

**CAROLYN W. COLVIN,
Acting Commissioner of
Social Security Administration,**

Defendant.

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Case No. 14-CV-244-JHP-KEW

**ORDER AFFIRMING AND ADOPTING THE FINDINGS AND
RECOMMENDATION OF THE UNITED STATES
MAGISTRATE JUDGE**

On November 21, 2016, the United States Magistrate Judge entered a Findings and Recommendation in regard to Plaintiff's Motion for an Award of Attorney Fees Under the Equal Access to Justice Act ("EAJA") (Doc. No. 28). The Magistrate Judge recommended that Plaintiff's Motion be granted and that the Government be ordered to pay Plaintiff's attorney's fees in the total amount of \$4,742.10. (Doc. No. 33). The Commissioner has not filed an objection to the Magistrate Judge's Findings and Recommendation within the time prescribed by law. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b).

This Court finds the Findings and Recommendation of the Magistrate Judge is supported by the record. Therefore, upon full consideration of the entire record and the issues presented herein, the Court finds and orders that the Findings and Recommendation entered by the United States Magistrate Judge on November 21, 2016, be **AFFIRMED** and **ADOPTED** by this Court as its Findings and Order and the Plaintiff is awarded attorney's fees in the total amount of \$4,742.10. Plaintiff's Motion for an Award of Attorney Fees under the Equal Access to Justice Act (Doc. No. 28) is **GRANTED**. Given the clear language of the statute governing the

payment of EAJA fees, the award in this case is to be made payable to Plaintiff, not Plaintiff's counsel, or jointly to Plaintiff and Plaintiff's counsel, as 28 U.S.C. § 2412(a)(1) and (d)(1)(A) provide for an award of costs and attorney's fees to a "prevailing party." Further, if Plaintiff's counsel is ultimately granted attorney fees pursuant to 42 U.S.C. §406(b)(1), she shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 16th day of December, 2016.



James H. Payne
United States District Judge
Eastern District of Oklahoma